

Montrose
97-03

SFUND RECORDS CTR
29644

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 9

IN THE MATTER OF:) UNILATERAL ADMINISTRATIVE
) ORDER FOR REMOVAL RESPONSE
MONTROSE CHEMICAL NPL SITE) ACTIVITIES
LOS ANGELES COUNTY, CA)
) U.S. EPA Region 9
) CERCLA DOCKET No. 97-03
MONTROSE CHEMICAL CORPORATION)
OF CALIFORNIA INC.,)
) Proceeding Under Section
RESPONDENT) 106(a) of the Comprehensive
) Environmental Response,
) Compensation, and Liability
) Act, as amended, 42 U.S.C.
) §9606(a)

I. JURISDICTION AND GENERAL PROVISIONS

This Order is issued pursuant to the authority vested in the President of the United States by section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability

1 Act of 1980, 42 U.S.C. § 9606(a), as amended (CERCLA), and
2 delegated to the Administrator of the United States Environmental
3 Protection Agency (EPA) by Executive Order no. 12580, January 23,
4 1987, 52 Fed. Reg. 2923, further delegated to the Regional
5 Administrators by EPA Delegation Nos. 14-14-A and 14-14-B, and
6 further delegated to the Region 9 Director of the Hazardous Waste
7 Management Division by Region 9 Delegation No. R1290.43.

8
9 EPA has notified the State of California of this action pursuant to
10 section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

11
12 **II. PARTIES BOUND**

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14 This Order applies to and is binding upon Respondent and
15 Respondent's directors, officers, employees, agents, successors and
16 assigns. Any change in ownership or corporate status of Respondent
17 including but not limited to any transfer of assets or real or
18 personal property shall in no way alter Respondent's
19 responsibilities under this Order.

20
21 Respondent shall ensure that its contractors, subcontractors, and
22 representatives receive a copy of this Order and comply with this
23 Order. Respondent shall be responsible for any non-compliance with
24 this Order.

1 **III. DEFINITIONS**

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3 1. For purposes of this Order, the term "Respondent" or "Montrose"
4 shall mean the Montrose Chemical Corporation of California, Inc.
5

6 2. For purposes of this Order, the term "Montrose plant property"
7 shall mean that 13 acre parcel located at 20201 Normandie Avenue,
8 Los Angeles County, California.
9

10 3. For purposes of this Order, the term "Montrose NPL Site Sewer
11 Removal Action" shall mean all response actions selected by EPA in
12 its September 21, 1992 Removal Action Memorandum for the portion of
13 the J.O. D sewer between manholes A 468 and D 32.
14

15 **IV. FINDINGS OF FACT**

16
17 1. Respondent manufactured the pesticide dichlorodiphenyl-
18 trichloroethane (DDT) at the Montrose plant property in Los Angeles
19 County, California from 1947 until approximately the summer of
20 1982. Respondent also conducted DDT grinding and DDT formulation
21 activities at the Montrose plant property. Respondent was the only
22 company with technical DDT manufacturing facilities located in
23 California. Respondent's DDT grinding and formulation operations
24 were the only such operations in the Torrance area.
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2. During the period of the Respondent's operations at the Montrose plant property, the Montrose plant property was owned by Stauffer Chemical Company.

3. During Respondent's operations at the Montrose plant property, DDT and other hazardous substances, such as monochlorobenzene, were released from, or as a result of, the Montrose operations.

4. EPA has determined that DDT is a probable human carcinogen. In addition, DDT can affect the liver and nervous system. DDT is also toxic to aquatic life and can cause reproductive failure in birds.

5. Exposure to monochlorobenzene can cause severe injury to the liver and kidneys.

6. From 1953 until at least 1971, Respondent discharged significant quantities of wastewater (from Respondent's operations at the Montrose plant property) containing significant quantities of DDT and other hazardous substances to two sewers operated by the County of Los Angeles Sanitation Districts (LACSD): the J.O. "D" sewer and the parallel and cross connected District 5 Interceptor.

7. At all times relevant hereto, the J.O. D and District 5 Interceptor sewers conveyed wastewater to the LACSD Joint Water Pollution Control Plant (JWPCP), which following primary treatment, discharged the effluent to the Pacific ocean through outfall dischargers located on the Palos Verdes shelf off of the Los

1 Angeles coast.

2
3 8. In the early 1970's, LACSD began an investigation of individual
4 dischargers to its sewer system in order to identify and eliminate
5 discharges of DDT and PCB into the LACSD sewer system. LACSD
6 identified only the Respondent's operations at the Montrose plant
7 property as a significant source of DDT, discharging up to hundreds
8 of pounds of DDT a day, in sewer flows to the JWPCP.

9
10 9. In 1970, 1971, 1973, 1976 and 1985, LACSD sampled sewer
11 sediments in the J.O. D and District 5 Interceptor sewers in the
12 vicinity of and downstream of the Montrose plant property. The
13 sewer sediment sample results indicated that DDT was present in the
14 sediments in concentrations from .4 to 24 percent by weight. The
15 highest DDT concentrations were found in tar sediments in the J.O.
16 D line adjacent to the Montrose plant property.

17
18 10. LACSD conducted two sewer cleaning operations of the District
19 5 Interceptor and J.O. D sewers adjacent to and downstream of the
20 Montrose plant property. The first cleaning operation was
21 completed in July of 1971 and resulted in the removal of 567,000
22 pounds of sediment containing an estimated 7,700 pounds of DDT.
23 The second cleaning operation also removed significant quantities
24 of DDT contaminated sediment.

25
26 11. In August and September of 1988, Respondent conducted a
27 comprehensive sewer sediment sampling investigation in the J.O. D

1 sewer in the vicinity of and downstream of the Montrose plant
2 property. Analysis of these samples confirm the presence of DDT in
3 all sediment grab samples. The sampling results also indicated
4 that the majority of the DDT contaminated sediment (an estimated
5 243,000 pounds containing 42,000 pounds of DDT) was located between
6 J.O. D manholes D32 and A468 (adjacent to and downstream of the
7 Montrose plant property).
8

9 12. EPA placed the Montrose Chemical Superfund Site on the CERCLA
10 National Priorities List on October 4, 1989.
11

12 13. Since 1985, Respondent has been conducting the CERCLA Remedial
13 Investigation and Feasibility Study for the Montrose Chemical
14 Superfund Site and other response actions under an Administrative
15 Order on Consent (AOC) with EPA (EPA Region 9 CERCLA Docket No. 85-
16 04, as amended). As part of the response activities covered by the
17 AOC, Respondent agreed to conduct an Engineering Evaluation and
18 Cost Analysis (EE/CA) investigation for the DDT contaminated
19 sediments remaining in the J.O D sewer line.
20

21 14. In March of 1991, Respondent submitted, and EPA subsequently
22 approved, a final EE/CA Report (Hargis + Associates, Engineering
23 Evaluation and Cost Analysis for Sanitary Sewers in the Vicinity of
24 the Montrose Property, Torrance California, dated March 25, 1991).
25 The EE/CA Report discussed the results of sewer sediment sampling
26 efforts conducted by Respondent and also evaluated various options
27 for addressing the DDT contaminated sediment remaining in the LACSD
28

1 sewer lines.

2
3 15. On September 21, 1992, after soliciting, receiving and
4 responding to public comment, EPA issued a CERCLA Removal Action
5 Memorandum (Removal Action Memorandum) for a removal action in the
6 J.O. D sewer between manholes D 32 and A 468 (the Montrose NPL Site
7 Sewer Removal Action). See U.S. EPA Region 9 Superfund Record
8 Center Document Number 0639-01163, Action Memorandum/Enforcement
9 Request for a Removal Action at the Montrose Superfund Site, Los
10 Angeles, California, Site ID # 26, dated September 21, 1992
11 (Approved by Jeff Zelikson, Director, Hazardous Waste Management
12 Division, on September 23, 1992). The removal action selected by
13 EPA is the removal of all visible sewer sediments between J.O. D
14 manholes D 32 and A 468 by: 1) bucket dredging, 2) manual scraping
15 and 3) hydraulic pressure cleaning. Removal Action Memorandum at
16 13. The EPA Removal Action Memorandum acknowledges that because
17 bucket dredging may not remove all of the visible DDT contaminated
18 sediments between J.O. D manholes D 32 and A 468, alternative
19 techniques (manual scraping and hydraulic pressure cleaning) may
20 have to be employed in order to meet the removal performance
21 standard that all visible sediment be removed from the J.O. D sewer
22 between manholes A 468 and D 32. Removal Action Memorandum at 12.
23 The EPA Removal Action Memorandum also requires that the sediments
24 be sent off site for incineration and disposal in accordance with
25 all applicable state and federal law. Removal Action Memorandum at
26 13.

1 16. EPA's Removal Action Memorandum found that:

2
3 If the DDT contaminated sediment is not removed prior
4 to the sewer line being rehabilitated, LACSD maintenance
5 workers may be exposed to unacceptable levels of DDT
6 located in the sewer pipes....

7 If the DDT contaminated sediment is not removed prior to the
8 sewer lines being rehabilitated, unacceptable levels of DDT
9 will be released into the offshore marine environment.

10 Removal Action Memorandum at 8.

11
12 EPA's Removal Action Memorandum concluded that the DDT contaminated
13 sediments in the J.O. D sewer between manholes A 468 and D32
14 represented an actual or threatened release of hazardous substances
15 that may present an imminent and substantial endangerment to public
16 health, welfare or to the environment. Removal Action Memorandum
17 at 9.

18
19 17. Following the issuance of the EPA Removal Action Memorandum,
20 implementation of the removal action was delayed until 1996 to
21 permit LACSD time to complete construction of a "relief sewer" that
22 has been designed to take a portion of the sewer flow from the J.O.
23 D while the removal action is carried out. This relief sewer will
24 also facilitate LACSD's need, following conclusion of the EPA
25 removal action, to divert sewer flow from the District 5
26 Interceptor and J.O. D in order to rehabilitate those sewer lines.
27 Large portions of the J.O. D and District 5 Interceptor sewers are

1 severely corroded and may also be structurally unsound.

2
3 18. By correspondence to EPA dated May 23, 1996, Respondent agreed
4 to voluntarily perform the Montrose NPL Site Sewer Removal Action,
5 with EPA oversight, as set out in the Removal Action Plan, prepared
6 by Respondent's contractor McLaren Hart.

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8
9 19. By letter to Respondent dated May 29, 1996, EPA granted
10 Respondent limited approval to begin preliminary removal
11 activities, not including actual sediment removal.

12
13 20. By letter to Respondent of July 17, 1996, EPA approved
14 Respondent's Removal Action Plan (McLaren/Hart, Removal Action
15 Plan, DDT-Impacted Sediment in the J.O. D Sanitary Sewer, Montrose
16 Chemical Superfund Site) (Removal Action Plan), and gave Respondent
17 approval to commence, solely on a voluntary basis, all aspects of
18 the removal action in accordance with the Removal Action Plan with
19 EPA oversight.

20
21 21. On June 19, 1996, EPA and LACSD executed an Administrative
22 Order on Consent (U.S. EPA Region 9 CERCLA Docket No. 96-12)
23 wherein LACSD agreed to provide EPA with access to the J.O. D sewer
24 between manholes A 468 and D 32 and cooperate with EPA in the
25 completion of the Montrose NPL Site Sewer Removal Action.

26
27 22. On July 3, 1996, following receipt of information from
28

1 Respondent that there was monochlorobenzene in the sewer sediment
2 in addition to DDT, EPA, by written correspondence to Respondent,
3 required that Respondent cover the bins containing sediment removed
4 from the J.O D sewer, modify its air monitoring program, perform
5 various additional sampling, observe certain additional
6 precautions, and presumptively manage all removed sewer sediments
7 as regulated hazardous waste under the Resource Conservation and
8 Recovery Act (42 U.S.C. § 6901 et seq.) (until such time as EPA
9 makes a final determination regarding the waste classification of
10 the sewer sediment). EPA plans to issue its final RCRA
11 determination following receipt and review of information requested
12 from Respondent by EPA.

13
14 23. Between June 17, 1996 and September 30, 1996, Respondent
15 used bucket dredging, manual shoveling and water jets (with vacuum
16 truck suction) to remove approximately 175 tons of loose sediment
17 from the J.O. D sewer between manholes A 468 and D 32. At this
18 time, this sediment is stored in covered bins located on the
19 Montrose plant property. The bins are stored in a fenced area with
20 24 hour security.

21
22 24. Analysis of sediments removed from the J.O. D sewer by
23 Respondent indicates that the sediments contain, on average, 24 %
24 DDT by weight with DDT concentrations varying from 1.6 parts per
25 million (ppm) to 490,000 ppm (49% by weight). Sampling results
26 also indicate the presence of monochlorobenzene at concentrations
27 ranging from non-detect to 2400 parts per million.

1 25. Respondent's contractor, McLaren/Hart, has estimated that
2 approximately 70 tons of sediment remain in the J.O. D sewer
3 segment between manholes D 30 and D 31 (adjacent to and immediately
4 downstream of the Montrose plant property). The remaining sediment
5 in this segment of the J.O. D sewer is of a tarry and sticky
6 consistency.

7
8 26. McLaren/Hart has estimated that the segment of the J.O. D
9 sewer between manholes D 31 and D 30 is about 615 feet long and
10 that the remaining estimated 70 tons of sediment is distributed
11 throughout about 600 feet of this sewer segment. The depth of the
12 sediment in this segment of the sewer varies from about 6 inches to
13 approximately 14 inches. The sediment is more tightly adhered to
14 the sewer walls than the looser sediments already removed by
15 Respondent.

16
17 27. The Removal Action Memorandum requires that all visible
18 sediment be removed from the J.O. D sewer between manholes D 32 and
19 A 468. Removal Action Memorandum at 13. The Removal Action Plan
20 submitted by Respondent also states that all visible sediment is to
21 be removed from this stretch of the J.O. D sewer. An estimated 70
22 tons of sediment, containing an average concentration of DDT of 24
23 % by weight, remain in the J.O. D sewer between manholes D 30 and
24 D 31.

25
26 28. The Removal Action Memorandum also required that sediment
27 removed from the J.O. D sewer be sent off-site for incineration and
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1 disposal. Some 175 tons of sediment removed from the J.O. D sewer
2 by Respondent have not been sent off-site for incineration and
3 disposal by Respondent.
4

5 29. On October 11, 1996, Respondent informed LACSD and EPA, by
6 letter, that Respondent would not voluntarily undertake efforts to
7 remove the remaining DDT contaminated sediments in the J.O. D
8 sewer, most importantly in the segment of the J.O. D sewer between
9 manholes D 31 and D 30. Respondent's letter also states that
10 Respondent will discontinue and dismantle the system currently
11 diverting flow from the J.O. D sewer above manhole 32 to the
12 District 5 Interceptor sewer, including the pumps, cross-over lines
13 and bulkheads.
14

15 30. With 175 tons of sediment having been removed from portions of
16 the J.O. D sewer above and below the segment of the J.O. D sewer
17 where the vast majority of the remaining DDT contaminated sediment
18 is located, EPA is uncertain as to whether the partial sediment
19 removal would alter the sewer flow dynamics in a manner that would
20 increase the likelihood that remaining DDT sediment would be
21 dislodged and released to the environment if sewer flow were
22 returned to the J.O. D sewer prior to removal of all remaining DDT
23 sediment.
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1 **V. CONCLUSIONS OF LAW AND DETERMINATIONS**

2

3 Based on the Findings of Fact and Administrative Record for the

4 Montrose NPL Site Sewer Removal Action, EPA has determined that:

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6

7 1. The Montrose Chemical Superfund Site is a "facility" as defined

8 by section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

9

10 2. DDT is a "hazardous substance" as defined by section 101(14) of

11 CERCLA, 42 U.S.C. § 9601(14). Monochlorobenzene is a "hazardous

12 substance" as defined by section 101(14) of CERCLA, 42 U.S.C. §

13 9601(14).

14

15 3. Respondent is a "person" as defined by section 101(21) of

16 CERCLA, 42 U.S.C. § 9601(21).

17

18 4. Respondent is liable, under section 107(a)(1-3) of CERCLA, 42

19 U.S.C. § 9607(a)(1-3), for all response costs incurred by the

20 United States with respect to the Montrose Chemical Superfund Site.

21

22 5. With an estimated 70 tons of DDT contaminated sediment

23 remaining in the J.O. D sewer between manholes A 468 and D 32,

24 Respondent's actions to date have not met the removal performance

25 standard (established in the EPA Removal Action Memorandum, dated

26 9/21/96), that all visible sediment be removed from this portion of

27 the J.O. D sewer. Consequently, EPA finds that the Montrose NPL

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1 Site Sewer Removal Action has not been completed.

2
3 6. The conditions described in the Findings of Fact above
4 constitute an actual or threatened "release" of a hazardous
5 substance from the facility, as defined by section 101(22) of
6 CERCLA, 42 U.S.C. § 9601(22).

7
8 7. As established by the administrative record supporting the EPA
9 September 21, 1992 Removal Action Memorandum and the determinations
10 contained in the Removal Action Memorandum, actual or threatened
11 releases of hazardous substances, including but not limited to DDT,
12 if not addressed by completing the removal action selected by EPA
13 in 1992 may present an imminent and substantial endangerment to
14 public health, welfare, or to the environment.

15
16 8. The response actions required by this Order are necessary to
17 protect the public health, welfare or the environment and are not
18 inconsistent with the NCP and CERCLA.

19
20
21 **VI. ORDER**

22
23 Based on the Foregoing Findings of Fact, Conclusions of Law,
24 Determinations, and the Administrative Record for the Montrose NPL
25 Site Sewer Removal Action, EPA hereby orders Respondent to comply
26 with the following provisions and perform the following actions:

1 1. Notice of Intent to Comply

2
3 Respondent shall notify EPA in writing, within two calendar days
4 after the effective date of this Order, of Respondent's intent to
5 comply with this Order. Failure by Respondent to provide such
6 notification within this time period shall be a violation of this
7 Order by Respondent.

8
9 2. Designation of Contractor and Project Coordinator

10
11 Respondent shall itself perform the removal actions required by
12 this order or shall retain contractors to perform the removal
13 actions required by this Order. Respondent shall notify EPA of
14 Respondent's qualifications or the names and qualifications of such
15 contractors or subcontractors within one calendar day of the
16 effective date of this Order. EPA retains the right to disapprove
17 of any, or all, of the contractors and/or subcontractors retained
18 by the Respondent or Respondent's choice of itself to do the
19 removal action. If EPA exercises this right of disapproval,
20 Respondent shall notify EPA that it has retained a different
21 contractor or subcontractor or notify EPA that it will conduct the
22 removal action itself within 2 business days following EPA's
23 disapproval.

24
25 Within two calendar days after the effective date of this Order,
26 Respondent shall designate a Project Coordinator who shall be
27 responsible for the administration of all of the Respondent's

1 actions required by the Order. Respondent shall submit the
2 designated coordinator's name, address, telephone number, and
3 qualifications to EPA. EPA retains the right to disapprove of any
4 Project Coordinator named by Respondent. If EPA disapproves of a
5 named Project Coordinator, Respondent shall retain a different
6 Project Coordinator and shall notify EPA of that person's name,
7 address, qualifications and telephone number within two business
8 days following EPA's disapproval.

9
10 EPA has designated Jeff Dhont of the Region 9 Superfund Enforcement
11 Branch as its On-Scene Coordinator (OSC) for the Montrose NPL Site
12 Sewer Removal Action. Respondent shall direct all submissions
13 required by this Order to the OSC at U.S. EPA, Region 9, H-7-1, 75
14 Hawthorne Street, San Francisco, CA 94105. Mr. Dhont's telephone
15 number is (415) 744-2399. In Mr. Dhont's absence, Michael
16 Montgomery shall be EPA's alternate OSC. Mr. Montgomery's
17 telephone number is (415) 744-2362.

18
19 3. Work to be Performed

20
21 Respondent shall operate and maintain the current diversion of
22 sewer flow from the J.O. D sewer to the District 5 Interceptor
23 sewer. This work shall include maintaining the brick bulkhead in
24 place upstream of manhole D 32 and the brick bulkhead downstream of
25 manhole A 468. This work shall also include either:

26
27 Operation and maintenance, on a 24 hour basis, of

1 the current pumping system which is transferring sewer flow
2 from the J.O. D to the District 5 Interceptor sewer, or
3

4 With express prior approval of LACSD, the construction of a
5 gravity based diversion between the J.O. D and District 5
6 Interceptor sewer lines upstream of manhole D 32 to replace
7 the current pumping system.
8

9 Respondent shall continue to operate and maintain the diversion of
10 sewer flow from the J.O. D sewer to the District 5 Interceptor
11 sewer until EPA provides notice to Respondent that EPA has
12 determined that Respondent has completed the removal of all visible
13 sediment from the J.O. D sewer between manholes D 32 and A 468.
14

15 Respondent shall complete the removal action as established in the
16 EPA Removal Action Memorandum (9/21/92), including but not limited
17 to:

18 Removal of all visible sediments in the J.O. D sewer
19 between manholes D 31 and D 30;
20

21 Off-site incineration and disposal, in compliance with
22 all applicable state and federal law, of all sediments
23 removed by Respondent from the J.O. D sewer, including
24 sediments currently stored in bins on the Montrose
25 plant property;
26

27 Completion of any additional actions, including additional
28

1 sediment removal, that EPA may determine are necessary
2 for the J.O. D sewer between manholes A 468 and D32
3 pending post-removal EPA inspections of the J.O. D sewer
4 between manholes A 468 and D 32; and

5
6 Completion of all re-diversion and de-mobilization activities
7 as required by Respondent's Removal Action Plan.
8
9

10 All work performed by Respondent, its contractors, consultants and
11 subcontractors, shall be conducted in accordance with the EPA
12 Removal Action Memorandum (9/21/92), the Removal Action Plan, all
13 applicable or appropriate or relevant state or federal law as
14 determined in the EPA Removal Action Memorandum (9/21/92) and for
15 offsite activities, all applicable state and federal laws,
16 including but not limited to state and federal laws concerning RCRA
17 regulated hazardous waste as well as the EPA offsite policy as
18 established in Section 121(d)(3) of CERCLA, 42 U.S.C. § 9621(d)(3).
19
20

21 EPA may require revisions to, or modify the Removal Action Plan.
22 If EPA requires revisions or modifications, Respondent shall submit
23 a revised Removal Action Plan within three calendar days of receipt
24 of EPA's notification of the required revisions or modifications.
25 The Removal Action Plan, the schedule, and any modifications or
26 revisions approved or required by EPA shall be fully enforceable
27 under this Order.

3.2 Quality Assurance and Sampling

Any sampling and analyses performed by Respondent in conducting the work required by this Order shall conform to EPA direction, approval, and guidance regarding sampling, quality assurance/quality control (QA/QC), data validation, and chain of custody procedures. Respondent shall ensure that the laboratory used to perform the analyses participates in a QA/QC program that complies with the appropriate EPA guidance.

Upon request by EPA, Respondent shall have such a laboratory analyze samples submitted by EPA for quality-assurance monitoring. Respondent shall provide to EPA the QA/QC procedures followed by all sampling teams and laboratories performing data collection and/or analysis.

Respondent shall notify EPA not less than two business days in advance of any sample collection activity. EPA shall have the right to take any additional samples that it deems necessary. Upon request by EPA, Respondent shall allow EPA or its authorized representatives to take split and/or duplicate samples of any samples collected by Respondent while performing actions under this Order.

3.3 Reporting

Respondent shall submit a written progress report to EPA concerning

1 actions undertaken pursuant to this Order every seventh calendar
2 day after the date of issuance of this Order. These progress
3 reports shall no longer be required after the work described in
4 Section 3.0 has been completed and the completion of such work has
5 been confirmed to EPA in a written progress report. The written
6 progress reports shall describe all significant developments during
7 the preceding seven days, including the actions performed, problems
8 encountered, analytical data received, developments anticipated
9 during the next reporting period, a schedule of work to be
10 performed, and planned resolutions of present or anticipated
11 problems.

12 13 3.4 Final Report 14

15 Within thirty calendar days after completion of all actions
16 required under this Order, Respondent shall submit for EPA review
17 a final report summarizing the actions taken by Respondent to
18 comply with this Order. The final report shall at a minimum comply
19 with the requirements set forth in Section 300.165 of the National
20 Contingency Plan entitled "OSC Reports." See 40 C.F.R. § 300.165.
21 The final report shall include a good faith estimate of the total
22 costs or a statement of the actual costs incurred in complying with
23 this Order, a listing of quantities and types of materials removed,
24 a presentation of all analytical results for sampling conducted by
25 Respondent with respect to compliance with this Order, and
26 accompanying appendices containing all relevant documentation
27 generated by Respondent in complying with this Order (e.g.,

1 manifests, invoices, bills, contracts and permits). The final
2 report shall also include the following certification signed by a
3 person who supervised or directed the preparation of that report:
4

5 Under penalty of law, I certify that to the best of my
6 knowledge, after appropriate inquiries of all relevant
7 persons involved in the preparation of the report, the
8 information submitted is true, accurate, and complete.

9 I am aware that there are significant penalties for submitting
10 false information, including the possibility of fine and
11 imprisonment for knowing violations.
12

13 4. Record Retention, Documentation, Availability of Information
14

15 Respondent shall preserve all documents and information relating to
16 work performed under this Order, or related to the hazardous
17 substances found in the DDT contaminated sediment, for ten years
18 following the completion of all actions required under this Order.
19 At the end of this ten year period and thirty days before any
20 document or information is destroyed, Respondent shall notify EPA
21 that such documents or information are available to EPA for
22 inspection, and upon request, shall provide the originals or copies
23 of such documents and information to EPA. In addition, Respondent
24 shall provide documents and information retained under this Section
25 at any time before the expiration of the ten year period following
26 the written request of EPA.
27
28

Respondent may assert a business confidentiality claim pursuant to 40 C.F.R. § 2.203(b) with respect to part or all of any information submitted to EPA pursuant to this Order, provided such claim is allowed by section 104(e)(7) of CERCLA, 42 U.S.C. §9604(e)(7). If no such claim accompanies the information when it is received by EPA, EPA may make it available to the public without further notice to Respondent.

5. Compliance With Other Laws

Respondent shall perform all actions required pursuant to this Order in accordance with all applicable local, state and federal laws including but not limited to state and federal laws concerning the transportation, storage, treatment and disposal of RCRA regulated hazardous waste. All off-site shipments of hazardous substances, pollutants or contaminants for treatment, storage or disposal shall only be treated, stored, or disposed of at a facility in compliance with 42 U.S.C § 9621(d)(3) as determined by EPA in accordance with 40 C.F.R. § 300.440.

6. Emergency Response and Notification of Releases

If any incident during the actions conducted pursuant to this Order causes or threatens to cause an additional release of hazardous substances or an endangerment to the public health, welfare, or to the environment, the Respondent shall immediately take all appropriate action. The Respondent shall take these actions in

1 accordance with all applicable provisions of this Order and all
2 applicable state and federal laws in order to prevent, abate or
3 minimize such release or endangerment caused or threatened by the
4 release. Respondent shall also immediately notify the OSC or in
5 the event of his unavailability, shall notify the Regional Duty
6 Officer (415) 744-2000 of the incident. The Respondent shall also
7 notify the National Response Center at (800) 424-8802.

8
9 Respondent shall submit a written report to EPA within seven days
10 after a release, setting forth the events that occurred and the
11 measures taken or to be taken to mitigate any release or
12 endangerment caused or threatened by the release and to prevent the
13 reoccurrence of such a release. This reporting requirement is in
14 addition to, not in lieu of, reporting under CERCLA section 103(c),
15 42 U.S.C. § 9603(c) and section 304 of the emergency Planning and
16 Community Right to Know Act of 1986, 42 U.S.C. Sections 11001 et
17 seq.

18
19 7. Notification of Off-Site Shipments

20
21 Respondent shall, seven calendar days prior to any off-site
22 shipment of hazardous substances, pollutants or contaminants or
23 materials containing hazardous substances, pollutants or
24 contaminants, provide written notification to the appropriate state
25 environmental official in the receiving facility's state and to the
26 OSC. The Respondent shall include in this written notification (1)
27 the name and location of the receiving facility, (2) the type and

1 quantity of material to be shipped to the receiving facility, (3)
2 whether EPA has determined the material to be federally regulated
3 hazardous waste pursuant to 40 C.F.R Part 261, (4) the expected
4 schedule for the shipment of the material and (5) the method of
5 transportation. The Respondent shall notify the OSC and the state
6 in which the planned receiving facility is located of major changes
7 in the shipment plan, such as a decision to ship the material to
8 another facility.

9
10 VII. AUTHORITY OF THE EPA ON-SCENE COORDINATOR

11
12 The OSC shall be responsible for overseeing the proper and complete
13 implementation of this Order. The OSC shall have the authority
14 vested in an OSC by the NCP, 40 C.F.R. § 300.120, including but not
15 limited to the authority to halt, conduct, or direct any action
16 required by this Order, or to direct any other removal action
17 undertaken by EPA or Respondent with respect to the J.O. D sewer
18 from manhole A 468 to manhole D 32.

19
20 EPA and Respondent shall have the right to change their designated
21 OSC or Project Coordinator. EPA or Respondent shall notify the
22 other party of such a change two calendar days before such a change
23 is made. Notification shall be made by written notice.

24
25 VIII. ENFORCEMENT: PENALTIES FOR NONCOMPLIANCE

26
27 Violation of any provision of this Order may subject Respondent to
28

1 civil penalties of up to \$25,000 per violation per day, as provided
2 in section 106(b)(1) of CERCLA, 42 U.S.C. § 9606(b)(1). Respondent
3 may also be subject to punitive damages in an amount up to three
4 times the amount of any cost incurred by the United States as a
5 result of such violation, as provided in section 107(c)(3) of
6 CERCLA, 42 U.S.C. § 9607(c)(3). Should Respondent violate this
7 Order of any portion hereof, EPA may carry out the required actions
8 unilaterally, pursuant to section 104 of CERCLA, 42 U.S.C. 9604,
9 and/or may seek judicial enforcement of this Order pursuant to
10 section 106 of CERCLA, 42 U.S.C. § 9606.

11 12 IX. RESERVATION OF RIGHTS 13

14 Except as specifically provided in this Order, nothing herein shall
15 limit the power and authority of EPA or the United States to take,
16 direct, or order all actions necessary to protect public health,
17 welfare, or the environment or to prevent, abate, or minimize an
18 actual or threatened release of hazardous substances, pollutants or
19 contaminants, hazardous or solid waste on, at or from the Montrose
20 Chemical Superfund Site (including but not limited to the Montrose
21 NPL Site Sewer Removal Action), the proposed Del Amo Pits Superfund
22 Site, or any other area or location. Further, nothing herein shall
23 prevent EPA from seeking legal or equitable relief to enforce the
24 terms of this Order, from taking other legal or equitable action as
25 it deems appropriate and necessary, or from requiring Respondent to
26 perform additional activities pursuant to CERCLA or any other
27 applicable law. EPA specifically reserves the right to pursue all

1 response costs incurred or damages and penalties claimed by the
2 United States in relation to the Montrose Chemical Superfund Site
3 and any related site or facility in the currently filed action
4 United States v. Montrose Chemical (CV 90-3122-AAH) or in any other
5 action in any other proper forum.

6
7 **X. OTHER CLAIMS**
8

9 By issuance of this Order, the United States and EPA assume no
10 liability for injuries or damages to persons or property resulting
11 from any actions or omissions of Respondent. The United States,
12 including but not limited to EPA, shall not be deemed a party to
13 any contract entered into by Respondent in carrying out actions
14 pursuant to this Order.

15
16 This Order does not constitute a pre-authorization of funds under
17 section 111(a)(2) of CERCLA, 42 U.S.C. § 9611(a)(2).
18

19 Nothing in this Order shall constitute a satisfaction of or release
20 from any claim or cause of action against the Respondent or any
21 person not a party to this Order for any liability such person may
22 have under CERCLA, or other statutes or common law, including but
23 not limited to any claims of the United States for costs, damages
24 and interest under section 106(a) and 107(a) of CERCLA, 42 U.S.C.
25 § 9606(a) and § 9607(a).
26
27
28

1 **XI. MODIFICATIONS**

2

3 Modifications to any plan or schedule may be made in writing by the

4 OSC or at the OSC's oral direction. If the OSC makes an oral

5 modification, it will be memorialized in writing within two

6 business days; provided, however, that the effective date of the

7 modification shall be the date of the OSC's oral direction. The

8 rest of the Order, or any other portion of the Order may only be

9 modified in writing by the EPA Director of the Region 9 Hazardous

10 Waste Management Division. If Respondent seeks permission to

11 deviate from any approved plan or schedule, Respondent's Project

12 Coordinator shall submit a written request and rationale for such

13 request to EPA for approval. No informal advice, guidance,

14 suggestion, or comment by EPA regarding reports, plans,

15 specifications, schedules, or any other writing submitted by

16 Respondent shall relieve the Respondent of its obligation to obtain

17 formal approval as may be required by this Order, and to comply

18 with all requirements of this Order unless it is formally modified.

19

20 **XII. NOTICE OF COMPLETION**

21

22 When EPA determines, after EPA's review of the Final Report, that

23 all removal actions have been fully performed in accordance with

24 this Order, with the exception of any continuing obligations

25 required by this Order, EPA will provide a notice of completion to

26 Respondent. If EPA determines that all actions have not been

27 completed in accordance with this Order, EPA will notify the

28

1 Respondent of the deficiencies and require that the Respondent
2 correct such deficiencies.

3
4 **XIII. ACCESS TO ADMINISTRATIVE RECORD**

5
6 The Administrative Record supporting the Montrose NPL Site Sewer
7 Removal Action is available for review at:

8
9 U.S. EPA Region 9, Superfund Records Center
10 95 Hawthorne Street
11 San Francisco, CA 94105
12

13 **XIV. OPPORTUNITY TO CONFER**

14
15 Within two calendar days after the issuance of this Order,
16 Respondent may request a conference with EPA. Any such conference
17 shall be held within five calendar days after the date on which the
18 Order was issued unless extended by agreement of the parties. At
19 any conference held pursuant to the request, Respondent may appear
20 in person or be represented by an attorney or other representative.
21

22 If a conference is held, Respondent may present any information,
23 arguments or comments regarding this Order. Regardless of whether
24 a conference is held, Respondent may submit any information,
25 arguments or comments in writing within seven calendar days
26 following the issuance of the Order. This opportunity to confer is
27 not an evidentiary hearing, does not constitute a proceeding to
28

1 challenge this Order, and does not give Respondents a right to seek
2 review of this Order. A request for a conference, or any written
3 submittal under this paragraph shall be directed to John J. Lyons,
4 Assistant Regional Counsel, at (415) 744-1312, U.S. EPA, Office of
5 Regional Counsel RC 3-2, 75 Hawthorne Street, San Francisco, CA
6 94105.

7
8 **XV. SEVERABILITY**

9 If a court issues an order that invalidates any provision of this
10 Order or finds that Respondent has sufficient cause not to comply
11 with one or more provisions of this Order, Respondent shall remain
12 bound to comply with all provisions of this Order not invalidated
13 or determined to be subject to a sufficient cause defense by the
14 court's order.

15
16 **XVI. EFFECTIVE DATE**

17 This Order shall be effective at 5 p.m. on October 18, 1996.

18
19 **IT IS SO ORDERED**

20
21 BY: Keith Takata DATE: 10-16-96

22 Keith Takata

23 Acting Director, Hazardous Waste Management Division

24 United States Environmental Protection Agency, Region 9

25
26 **EFFECTIVE DATE: 5 p.m. OCTOBER 18, 1996**

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SYMBOL	RC-3-2	RC 3-4	H-1			
SURNAME	<i>[Signature]</i>	Johnson	IC			
DATE	10/16/96	10/16/96	10-16			

U.S. EPA CONCURRENCES OFFICIAL FILE COPY